

Docket No. F-7890

Ser. No. 10/621,765

In response to the Office Action of July 14, 2005, reconsideration of the above-identified patent application is requested based on the following amendments and remarks:

**IN THE DRAWINGS:**

Attached herewith is a replacement sheet for Figs. 1 and 2 where amendments thereto are explained in the Remarks.

Docket No. F-7890

Scr. No. 10/621,765

**REMARKS**

Figs. 1 and 2 have been amended and are now labeled "prior art".

Claims 1-8 are pending wherein claims 3-7 have been withdrawn. The Examiner has rejected Claim 1 under 35 U.S.C. § 102(b) as being anticipated by McCormick et al (USPN 4078724). Claims 1-2 and 8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Helmut et al (DE 38 20 243 A1 as modified by Mohr (USPN 6488215 B2), where Mohr is cited for teaching a twisting prevention device. Applicant traverses the rejections as follows.

Applicant has amended Claim 1 to include the limitations of Claim 2 and introduced new Claim 9 to further distinguish the invention over the art. Mohr, which has the same assignee as the present application, shows a support plate having single depressions (no number) on either side of the supporting shoulder 14. Fig. 1 of applicant's invention (which is prior art) shows a single depression 4 on each guiding plate 6. As disclosed on page 4 of applicant's specification, there are two spaced depressions (e.g. 16) on each guiding plate 6. Such spaced depressions (e.g. 16) result in a stronger tie as compared to the single elongated deep depressions (e.g. 4, Fig. 1) of the prior art.

Docket No. F-7890

Ser. No. 10/621,765

In comparison with the known art, Figure 11 illustrates four short, spaced depressions 16 which are contained in the region of the outer edges of the rail supports. As the claims recite these distinguishing features, the claims overcome the rejections under both sections 102 (b) and 103 (a). *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051 (Fed. Cir. 1987) ("a claim is anticipated only if each and every element as set forth in the claim" is found in the cited prior art reference); *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974) (a prima facie case of obviousness is established only where the combination of cited references teaches or suggests each limitation in the claim).

Applicant further asserts that Claim 1 is now generic and Applicant respectfully requests that the Examiner considers each of the withdrawn claims depending therefrom.

Applicant respectfully requests a one month extension of time for responding to the Office Action. The fee of \$120.00 for the extension is provided for in the charge authorization presented in the PTO Form 2038, Credit Card Payment form, provided herewith.

If there is any discrepancy between the fee(s) due and the fee payment authorized in the Credit Card Payment Form PTO-2038 or the Form PTO-2038 is

Docket No. F-7890

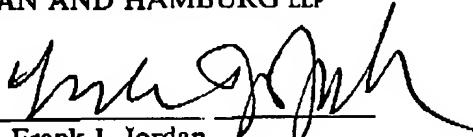
Ser. No. 10/621,765

missing or fee payment via the Form PTO-2038 cannot be processed, the USPTO is hereby authorized to charge any fee(s) or fee(s) deficiency or credit any excess payment to Deposit Account No. 10-1250.

In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited.

Respectfully submitted,

JORDAN AND HAMBURG LLP

By 

Frank J. Jordan  
Reg. No. 20,456  
Attorney for Applicants

Jordan and Hamburg LLP  
122 East 42nd Street  
New York, New York 10168  
(212) 986-2340

FJJ/TDB/cj  
Enc.